

### **REMARKS**

Applicant has reviewed and considered the Office Action mailed on March 29, 2010, and the references cited therewith. Claims 21 is amended, and no claims are canceled or added; as a result, claims 1-7 and 10-30 are now pending in this application.

As an initial matter, Applicants traverse the statement made in the Office Action that “Pinard discloses essentially all the claimed invention as set forth in the instant application”. Applicants respectfully submit that this conclusory statement is not supported by any reasoning or evidence in the Office Action.

#### **35 USC § 101 Rejection of the Claims**

Claims 21-24 were rejected under 35 USC § 101 because the claimed invention was indicated to be directed to non statutory subject matter. Claim 21 has been amended to limit it to non-transitory subject matter, and therefore does not read on a signal. Applicants respectfully request that this rejection be withdrawn.

#### **35 USC § 112 Rejection of the Claims**

Claim 21 was rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claim 21 has been amended to recite a computer-readable medium. The claim is to an apparatus (computer-readable medium) that includes instructions executable by a computer. Applicants believe this rejection has been overcome by amendment, and respectfully request that this rejection be withdrawn.

#### **35 USC § 103 Rejection of the Claims**

Claims 1-6 were rejected under 35 USC § 103(a) as being unpatentable over Pinard et al. (U.S. Patent No. 6,580,700) in view of Jones et al. (U.S. Patent No. 6,192,245). Claims 7, 13, 14, 20, 21 were rejected under 35 USC § 103(a) as being unpatentable over Jones et al. (U.S. Patent No. 6,192,245). Claims 10-12, 15-19, 22-30 were rejected under 35 USC § 103(a) as

being unpatentable over Jones et al. (U.S. Patent No. 6,192,245) in view of Pinard et al. (U.S. Patent No. 6,580,700).

Applicants respectfully traverse these rejections on the grounds that a *prima facie* case of obviousness has not been established. Applicants respectfully submit that a proper *prima facie* case of obviousness has not been established because the combination of references does not disclose, teach, or suggest the subject matter of the claims.

#### The Pinard Reference

The Pinard reference describes “an algorithm allowing selection by a mobile unit of an access point for association maximizing the data throughput” and “roaming by a mobile unit over access points having different data rate characteristics.” See column 2, ll. 41-47 of Pinard. Pinard describes a mobile unit carrying out “update probes” [column 5, ll. 32-48] and determining received signal strength indicator (RSSI) values when receiving probe packet responses (PPR) from different access points. [Column 5, ll. 58-67]. “[T]he RSSI information for each access point ... is placed in a table” [Column 6, ll. 1-2], and “an eligible group of access points is selected 18, including all access points having an RSSI value no more than six counts below the best detected RSSI value.” [Column 6, ll. 20-23]. From within the eligible group, an access point with the lowest load factor (LF) is selected for association. [Column 6, ll. 23-35]. “The load factor is a measure of how many mobile units are currently associated with a given access point; in the present case the load factor is represented by a simple numerical value representing the exact number of associated mobile units.” [Column 6, ll. 25-29].

Accordingly, Pinard describes a mobile unit comparing RSSI values of candidate access points to determine an eligible group of access points, and then associating with an eligible access point having the least number of associated mobile units.

#### The Jones Reference

The Jones reference describes a “method for determining handover in a multicellular communications system”. See the Title and Abstract of Jones. Jones introduces the concept of a “control” cell. “The present invention adds a set of ‘control’ neighbours (control cells) to the list of neighbours that a mobile station is requested to monitor for handover purposes. These control

cells may lie beyond the actual planned neighbours of the cell providing service to the mobile.” [Column 3, ll. 11-13]. Jones utilizes the control cell in the handover determination. “[T]he [handover] method includes the steps of measuring a received signal at the mobile station 1 from the control cell 5, comparing the received signal from the control cell 5 with a parameter value and determining a handover based on the comparison.” [Column 3, ll. 22-26]. “The parameter value may be a received signal from a target cell 4.” [Column 3, ll. 27-28].

Accordingly, Jones describes handover decisions that are made by comparing received signal strengths of target cells with received signal strengths of control cells.

Jones also discloses a timer. “When a mobile station 1 served by a microcell 3 detects that a neighbour cell 4 is being received at a power which exceeds a threshold, as in step 21, it starts a timer” [Column 3, ll. 60-62]. While the timer is running, a handover is made if the power received from a control cell is greater than a neighbor cell. “While the timer is running the signal received from the neighbour cell 4 is compared with a signal received from a control cell 5, step 23. If the power received from control cell 5 is greater than that received from neighbour cell 4 (target cell) it may be determined that the mobile station 1 is fast moving and that handover to the macro cell layer should be effected, step 24.” [Column 3, line 63 – Column 4, line 2]. Accordingly, Jones discloses performing a handover while the timer is running.

#### Independent Claim 1

Regarding claim 1, the office action alleges that Pinard, at column 6, ll. 1-36, discloses “determining a metric representing a quality of a current association between a wireless network client and an access point” and “comparing the metric against a threshold”. The office action equates Pinard’s RSSI to the metric of claim 1, and equates Pinard’s load factor to the threshold of claim 1. Applicants respectfully submit that this is error for multiple reasons.

Pinard’s RSSI is not “a metric representing a quality of a current association between a wireless network client and an access point”. As discussed above, the RSSI information described in the cited portion of Pinard is determined from probe responses from different access points. The RSSI of the different access points is then compared to determine an eligible group of access points from which to choose for a new association. Applicants respectfully submit that the RSSI of Pinard does not refer to a current association between a wireless access point and an

access point. The RSSI of Pinard only refers to access points that may be considered for the eligible group.

Pinard does not compare the RSSI to the load factor (LF). As discussed above, the RSSI of the different access points are compared to each other to determine an eligible group. An access point with the lowest LF is then chosen from the eligible group.

Assuming, *arguendo*, that Pinard teaches comparing the RSSI to the LF, this does not anticipate comparing a metric of a current association with a threshold because the RSSI of Pinard is not a metric of a current association.

Still regarding claim 1, the office action correctly identifies Jones as disclosing a timer. As discussed above, the timer of Jones is set when the power of a neighbor cell exceeds a threshold. Further, the mobile station may handover during the time that the timer is running. Accordingly, applicants respectfully submit that Jones fails to teach “setting a timer to delay a roaming attempt by the wireless network client”. On the contrary, Jones appears to teach performing a roaming attempt while the timer is running.

Accordingly, applicants believe claim 1 is in condition for allowance. Claims 2-6 depend on claim 1 and are believed to be in condition for allowance at least by virtue of dependency. In addition, claims 2-6 further define over the references of record.

#### Independent claim 7

The office action alleges that Jones discloses “setting a timer to one of a plurality of values to delay a roaming attempt by a mobile station in a wireless network, wherein the value to which the timer is set is influenced by a perceived quality of a current association”. Applicants respectfully disagree. Jones “starts a timer” when a mobile station detects that a neighbour cell is being received at a power which exceeds a threshold”. [Column 3, ll. 60-62]. Jones fails to describe the value to which the timer is set. Jones further fails to describe the origin of the value to which the timer is set. Accordingly, applicants respectfully submit that Jones fails to teach “setting a timer to one of a plurality of values to delay a roaming attempt by a mobile station in a wireless network, wherein the value to which the timer is set is influenced by a perceived quality of a current association” as claimed.

Applicants respectfully submit that Jones does not disclose, teach, or suggest the subject matter of claim 7, including for example, “setting a timer ... to delay a roaming attempt...wherein the value to which the timer is set is influenced by a perceived quality of a current association”. Accordingly, applicants believe claim 7 as amended is in condition for allowance. Claims 10-13 depend on claim 7 as amended and are believed to be in condition for allowance at least by virtue of dependency.

#### Independent claims 14 and 21

Independent claims 14 and 21 clearly recite that the metric(s) “represent the quality of a current association between a wireless network client and an access point.” As described above, applicants respectfully submit that the Jones does not disclose, teach or suggest setting a timer in response to metrics that correspond to a current association and delaying a roaming attempt. Accordingly, applicants believe the rejection of independent claims 14 and 21 should be withdrawn. Claims 15-20 and 22-24 depend on claims 14 and 21, respectively, and are believed to be in condition for allowance at least by virtue of dependency.

#### Independent Claims 25 and 28

Independent claims 25 and 28 include limitations similar to claim 7. As discussed above, applicants respectfully submit that combination of references fails to disclose, teach, or suggest “wherein the processor is adapted to set a timer based on a perceived quality of a current association, and further adapted to attempt roaming when the timer expires” as recited in claim 25. Applicants further submit that the combination of references fails to disclose, teach, or suggest “wherein the processor is adapted to set a timer based on a perceived quality of a current association, and further configured to attempt roaming when the timer expires” as recited in claim 28. Accordingly, applicants believe claims 25 and 28 are in condition for allowance. Claims 26, 27, 29, and 30 depend on claims 25 and 28, and are believed to be in condition for allowance at least by virtue of dependency.

**Conclusion**

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (952-473-8800) to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 50-4238.

Respectfully submitted,

JAYA L. JEYASEELAN ET AL.

By their Representatives,

**Customer Number: 45445**

Telephone Number: 952-473-8800

Date June 25, 2010 By /Dana B. LeMoine/  
Dana B. LeMoine  
Reg. No. 40,062